

This letter discusses trade-ins. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

December 19, 2003

Dear Xxxxx:

This letter is in response to your letter dated June 25, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We hereby request a General Information Letter, pursuant to 2 Ill. Adm. Code 1200.120.

**Facts**

Our client, Company XYZ, is in the business of selling heavy equipment in transactions that typically create taxable sales. Common practice is to accept trade-ins as part of the sale of new equipment. In some cases, Company XYZ will take a piece of used equipment as a deposit toward payment of the purchase price of similar new equipment. At that time, the buyer will receive confirmation from Company XYZ that the used equipment was received by Company XYZ and is to be treated as a deposit toward a purchase of new equipment from Company XYZ. Company XYZ will then sell the traded-in property at auction. The proceeds received at auction may be different than the value established at the time the deposit is taken. When the purchase by the buyer is finalized (new property is transferred to the buyer), the cash payments required of the buyer will reflect the new auction value of the deposit/traded-in property.

1. Can Company XYZ treat the initial deposit of the used equipment as a trade-in under Illinois Regulation Section 130.425?

2. Should any sales tax be reported by Company XYZ for the period when the deposit of traded-in property is received from the buyer?

### **Discussion**

Since the deposit of traded-in property by the buyer is of like kind and character as that which is being sold by Company XYZ, it appears that the above described transaction will meet the requirements of Section 130.425 Traded-in Property. Per Section 130.425, the sale amount ‘...means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of a credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold...’

### **Conclusion**

Because we are dealing with like kind property, there will be no sales tax due by Company XYZ at the time of the deposit of traded-in property by the buyer. Further, there will never be any sales tax due on the amount of the sales price represented by the auction value of the deposit of traded-in property.

Thank you in advance for your consideration of this matter.

### **DEPARTMENT’S RESPONSE:**

Sections 130.425 and 130.455 of the Department’s administrative rules set out the guidelines for trade-ins. See 86 Ill. Adm. Code 130. 425 and 130.455. Section 130.425 describes a standard trade-in situation for a retailer that occurs at the time of sale. Section 130.455 describes advance trade-in situations that may be used for trade-ins of motor vehicles and other types of tangible personal property that is required to be titled or registered with an agency of this State’s government.

The trade-in situations described in your letter may qualify as an advance trade-ins if the equipment is required to be titled or registered with an agency of this State’s government and all of the other requirements of Section 130.455 are met. Please note that a seller that receives property as a trade-in and sells that property at auction will be subject to Retailers’ Occupation Tax liability on that sale unless another exemption can be claimed.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
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TDC:msk